

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of Petition :
 of :
SLACSAR PUBLISHING COMPANY, LTD. :
for redetermination of deficiencies :
of franchise tax under Article 9-A :
of the tax law for the fiscal years :
ended 11/30/70 and 11/30/71. :

The taxpayer having filed a petition for redetermination of deficiencies under Article 9-A of the tax law for the FYE 11/30/70 and 11/30/71 and a hearing having been held at the office of the State Tax Commission, 2 World Trade Center, New York City, at which hearing H. Tabin, certified public accountant, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Slacsar Publishing Company, Ltd. ("Slacsar") filed returns claiming an allocation of its business income. The Corporation Tax Bureau disallowed the allocation and issued statements of audit adjustment and notices of deficiency taxing 100% of the income as follows:

	<u>FYE 11/30/70</u>	<u>FYE 11/30/71</u>
Entire net income reported	6,633.05	537.61
Add officers' salaries (less \$15,000)	64,000.00	61,000.00
Alternative tax base	70,633.05	61,537.61
Tax--30% of above at 7%	1,483.29	
Tax--30% of above at 8.833%		1,630.75
Tax per report	449.27	423.92
Deficiency	1,034.02	1,206.83

(2) Slacsar was incorporated in New York State on 4/13/66 and owns the rights to certain rock music and arrangements which it allows others to use for a fee. The corporation generally receives two cents a record from record manufacturers and a fixed fee per performance from musicians who wish to perform its compositions. The five employees of the corporation consist of four officers and one stockholder who compose the music in their own respective homes, three of which are located in New York, one in Connecticut and one in New Jersey. The group then gets together at one another's home to choose those ideas which they think to be most marketable and expand on them. The business address shown on the returns is the address of the certified public accountant who keeps the books and records. The corporation does not file income or franchise tax returns with the states of Connecticut and New Jersey.

(3) Section 209 of the tax law reads in part:

"1. For the privilege of exercising its corporate franchise . . . every domestic . . . corporation shall annually pay a franchise tax, upon the basis of its entire net income . . . "

(4) Section 210.3(a)(4) of the tax law reads in part:

"provided, however, that if the taxpayer does not have a regular place of business outside the state other than a statutory office, the business allocation percentage shall be one hundred percent;"

(5) Section 4.11(b) of Ruling of the State Tax Commission dated March 14, 1962 states in part:

"A regular place of business is any bona fide office (other than a statutory office), factory, warehouse or other space which is regularly used by the taxpayer in carrying on its business . . . "

The State Tax Commission hereby

DECIDES:

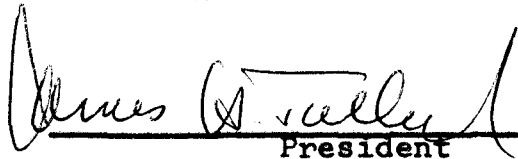
(A) The taxpayer is not entitled to an allocation of its business income. The homes of the officers in Connecticut and New Jersey do not qualify as bona fide regular places of business in a tax sense. We are merely accepting the taxpayer's own determination that the homes do not so qualify, since the corporation has not filed income or franchise tax returns with Connecticut and New Jersey.

(B) The notices of deficiency at (1) are affirmed together with interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York

this 14th Day of August 1975.

STATE TAX COMMISSION


President


Commissioner


Commissioner